



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

GLOTZER *et al.*

Appl. No. 09/881,736

Filed: June 18, 2001

For: **Cyk-4 Polypeptides, DNA
Molecules Encoding Them and
Their Use in Screening Methods**

Confirmation No. 8755

Art Unit: 1646

Examiner: Li, Ruixiang

Atty. Docket: 0652.2260001/EKS/AES

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Reply To Restriction and Election of Species Requirements

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated April 17, 2003, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 7 (in part) and 8-10, drawn to a method of identifying a compound capable of modulating cytokinesis, wherein the compound's ability to modulate the function of CYK-4 is determined. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

In response to the Examiner's election of species requirement, Applicants hereby provisionally elect human polypeptide CYK-4, set forth in SEQ ID NO:2, as the particular CYK-4 polypeptide to be elected for prosecution. Claims 7-10 read on human polypeptide CYK-4. Further, with respect to claims 8 and 9, Applicants provisionally elect human RhoA and human MKLP1 ("HsMKLP1") as the particular members of the Rho family of GTPases and MKLP1 subfamily of proteins, respectively, to be elected for prosecution. Claims 7 and 8 read on human RhoA, and claims 7 and 9 read on human

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MKLP1. Lastly, with respect to claims 9 and 10, Applicants provisionally elect for prosecution the compound's ability to inhibit CYK-4 function, determined by determining the compound's ability to interfere with the biochemical interaction of CYK-4 and a member of the MLKP1 subfamily ((i), set forth in the Office Action at page 4, paragraph 7). Claims 7 and 9 read on species (i).

This election is made **with** traverse. Applicants submit that the claims of restriction Groups I and II can be examined without serious burden on the part of the Examiner.

MPEP 803 (August 2001), at page 800-4, left-hand column, states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Thus, the Patent Office encourages examination of the entire application where such search and examination can be made without serious burden, even though separate, non-overlapping searches may be required.

In the present case, Applicants respectfully assert that the search of Groups I and II does not impose a serious burden upon the Examiner, as a search concerning the patentability of one group is likely to uncover art of interest to the other group. Any additional search that would be needed would not be an undue burden on the Examiner. Accordingly, in the interest of efficient advancement of prosecution, it is respectfully requested that the Examiner reconsider and withdraw the restriction requirement. Furthermore, allowance of all pending claims is respectfully requested.

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In the event that the Group II claims are withdrawn from consideration, Applicants respectfully request their rejoinder upon finding the subject matter of Group I to be allowable.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No.

19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: June 17, 2003

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